

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KRISTINA GARCIA,

Plaintiff,

CASE NO.: 2:19-cv-11673

v.

District Judge Linda v. Parker

BEAUMONT HEALTH and RACHEL LUCA,

Magistrate Judge David Grand

Defendants.

Lisa C. Ward (P38933)

Attorney for Plaintiff
Law Offices of Lisa C. Ward, PLLC
4131 Okemos Rd., Ste. 12
Okemos, MI 48864
(517) 347-8100
lisacwardlaw@gmail.com

Eric J. Pelton (P40635)

Shannon V. Loverich (P53877)
Attorneys for Def. Beaumont Health
Kienbaum Hardy Viviano
Pelton & Forrest, PLC
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009
(248) 645-0000
epelton@khvpf.com
sloverich@khvpf.com

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO VACATE
SCHEDULING ORDER**

NOW COMES Plaintiff, Kristina Garcia, through her Attorney, Lisa C. Ward, Law Offices of Lisa C. Ward, PLLC, to hereby oppose Defendant's Emergency Motion To Vacate the Scheduling Order In Light Of Current Extraordinary Circumstances And Hardship, which was

served on Plaintiff on April 10, 2020.

On October 3, 2019, this Court entered a Scheduling Order, which required the parties to file lay and expert witness lists by February 6, 2020, for Plaintiff to exchange expert disclosures by March 6, 2020 and for Defendant to exchange expert disclosures by April 3, 2020. Plaintiff timely filed her expert witness list on February 6, 2020 and provided her expert disclosures to Defendant on March 6, 2020. As of the date of Defendant's motion to vacate, it still has not identified any expert witnesses, as required by the Court's scheduling order.

Rather than comply with the Court's October 3, 2019 Scheduling Order, Defendant merely disclosed that it will be calling a psychological testing expert and psychiatric expert. Defendant alleges that it was unable to identify any actual expert due to Plaintiff's delayed production of medical authorizations. Plaintiff has complied with all of the court rules regarding discovery in this case.¹ Not only did Plaintiff send copies of her mental health medical records to Defendant before the end of January 2020, but Defendant also had Plaintiff's signed medical authorizations over 2 months ago. At no time has Defendant sought to update its witness list and provide an actual name of any expert witness.

Plaintiff submits that based on Defendant's failure to comply with this Court's October 3, 2020 Scheduling Order, Defendant should be prohibited from calling an expert witness in this

¹ Given that Defendant's motion is to be considered on an expedited basis, Plaintiff has not fully addressed this issue. However, in the event Defendant moves for a medical exam and/or attempts add an expert at this late date, Plaintiff requests that she be allowed to fully brief this matter.

case. In the event Defendant tries to list an expert that was not timely identified, Plaintiff is prepared to file a motion to strike. Given that Defendant has not adequately identified any expert witness, requiring Plaintiff to undergo an expert medical exam is not necessary; nor is it appropriate in this case. With regard to the other deadlines in the scheduling order, Plaintiff intends to have her expert report to Defendant on or before May 1, 2020 and to participate in the May 20, 2020 settlement conference by video and/or telephonic means.

WHEREFORE, Plaintiff requests that this Honorable Court deny Defendant's Emergency Motion To Vacate the Scheduling Order In Light Of Current Extraordinary Circumstances And Hardship.

Respectfully submitted,

Dated: April 13, 2020

/s/ Lisa C. Ward
Lisa C. Ward (P38933)
Law Offices of Lisa C. Ward, PLLC
Attorney for Plaintiff
4131 Okemos Road, Suite 12
Okemos, MI 48864
(517) 347-8100

PROOF OF SERVICE

I, Polina Hristova, hereby certify that on April 13, 2020, I served a copy of Plaintiff's Opposition to Defendant's Motion to Vacate Scheduling Order and this Proof of Service on Defendant's attorney of record, Eric Pelton, via this Court's Electronic Filing System, which gives notice to all parties on record.

Dated: April 13, 2020

/s/ Polina Hristova
Polina Hristova
Legal Assistant